


## 2018 APAAC ADMINISTRATIVE ASSISTANTS CONFERENCE

### DUI UPDATES & REMINDERS

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# Legislative Update

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# DUI Statutes



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## DUI; TSS, Commercial Vehicles

**HB 2455**

- Requires person convicted of any DUI offense to attend & successfully complete Traffic Survival School.
- Increases the Gross Vehicle Weight limit for a CMV used for intrastate commerce to 26,000 pounds.
- Gives ADOT Director additional options for violations by the actual traffic school.

**\*\*Effective - August 3, 2018**  
**Amends ARS § 28-1381; 28-1382; 28-1383; 28-1401; 28-3416; 28-5201**

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## Wrong-Way Driving; DUI

**HB 2243**

- Establishes civil traffic offense for driving the wrong way on a "controlled access highway."
  - \$500 civil penalty.
  - must attend & complete TSS.
- Adds Agg DUI for a person who commits DUI while driving the wrong way on a "highway."
  - class 4 felony.
  - minimum 4 months incarceration.

**\*\*Effective - August 3, 2018**  
**Creates ARS § 28-694; Amends ARS § 28-1383**

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**HB 2243**

**Wrong-way Driving; DUI**

Defines "Wrong-way":

Vehicular movement that is in a direction opposing the legal flow of traffic. Wrong-way does not include median crossing or a collision where a motor vehicle comes to a stop facing the wrong-way.

Effective - August 3, 2018

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## Wrong-Way Driving

**HB 2243**

- Civil violation – limited to “controlled access highway.” [28-601(2)]
  - a highway, street or roadway to or from which owners or occupants of abutting lands and other persons have no legal right of access except at such points only and in the manner determined by the public authority that has jurisdiction over the highway, street or roadway.

**\*\*Effective - August 3, 2018**  
**Creates ARS § 28-694; Amends ARS § 28-1383**

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## Wrong-Way Driving; DUI

**HB 2243**

- Agg DUI – occurs on a “highway”
- ARS § 28-101(57) "Street" or "highway"
  - the entire width between the boundary lines of every way if a part of the way is open to the use of the public for purposes of vehicular travel.

**\*\*Effective - August 3, 2018**  
**Creates ARS § 28-694; Amends ARS § 28-1383**

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## Agg DUI Jail Program

**SB 1400**

- Allows sheriffs in counties of < 500,000 persons to establish an Agg DUI jail program.
- Agg DUI incarceration may be served in an Agg DUI jail if:
  - 1) violation occurred in that county or a contiguous one; &
  - 2) person is placed on probation.
- Not eligible for any release, work detail, monitoring program if would not have been in prison.

**\*\*Effective - August 3, 2018**  
**Amends ARS § 28-1383; 41-2405**

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# Traffic Statutes

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## Ticket Surcharge

**HB 2527**

- Establishes a \$4 assessment on all civil or criminal traffic offenses.
- Increases the assessment for attending a court-authorized diversion program for traffic offenses (including defensive driving programs) from \$5 to \$9.
- Funds will be used for peace officer equipment.

**\*\*Effective – January 1, 2019**  
**Amends ARS § 12-114; 41-1273; 41-1731; 41-1732**

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## 28-672 Penalties

Causing Serious Physical Injury or Death by Moving Violation

**HB 2522**

- Class 1 misdemeanor (instead of class 3).
  - Removes 1,000 fine limit.
- Requires court to award restitution. Cap increased. **(From \$10,000 to \$100,000 \*\*\*\*\*)**
- License suspensions must run consecutively.
- Increases potential length of license suspension.
  - 180 days for serious injury; 1 year for death

**\*\*Effective – August 3, 2018**  
**Amends ARS §§ 28-672; 28-675; 28-676**

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## Suspended licenses; Restricted licenses

**HB 2169**

- Allows court to dismiss suspended license charges if:
  - Suspension was for failure to pay civil penalties or failure to appear
  - Person presents evidence of the reinstatement of unrestricted driving privilege.

\*\*Effective January 1, 2019

Amends or Adds ARS § 25-518; 28-144; 28-661; 28-1387; 28-1401; 28-1402; 28-1601; 28-1603; 28-3308; 28-3473; 28-3480; 28-3482; 28-3483; 28-3511; 28-4135

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## Suspended licenses; Restricted licenses

**HB 2169**

- Reduces driving on suspended license for failure to pay civil penalties or failure to appear from class 1 misdemeanor to civil traffic violation.
- Reduces corrective lens restriction violation from class 2 misdemeanor to civil traffic violation.

\*\*Effective January 1, 2019

Amends or Adds ARS § 25-518; 28-144; 28-661; 28-1387; 28-1401; 28-1402; 28-1601; 28-1603; 28-3308; 28-3473; 28-3480; 28-3482; 28-3483; 28-3511; 28-4135

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# Reminder From Last Session



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## Teenage Drivers/Instruction Permits Cell Phones/Texting

**SB 1080**

- Prohibits drivers with:
  - instruction permits
  - class G licenses for first 6 months or until 18<sup>th</sup> birthday

From using wireless communication devices while driving.

- Can use in emergency. Can use GPS if not manually adjusting.
- Secondary offense.

\*\*Effective date 7/1/2018  
Amends A.R.S. § 28-3154; 28-3101

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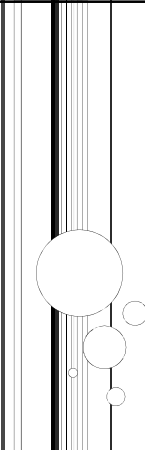
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## CASE LAW UPDATE

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## FOURTH AMENDMENT OPINION

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## STOP OF VEHICLE: REVOKED LICENSE

- Reasonable suspicion exists to stop a vehicle when an officer discovers the owner of the vehicle has a suspended license.
- Does not matter if officer could not see the driver clearly enough to identify him/her as the owner of the vehicle.
- Officer need not rule out innocent explanations for the conduct.

*State v. Turner*, 243 Ariz. 608 (App. 2018).

## ITEMS OF INTEREST

### ◦ E-warrant expansion

**ARIZONA**  
JUL 13 2018

From: Adam Kelly  
To: Arizona Police Chiefs, Sheriffs and Law Enforcement Officers statewide

**RE: ATTACHED ADMINISTRATIVE ORDER NO. 2018-001, ISSUED BY THE ARIZONA SUPREME COURT REGARDING THE ELECTRONIC SEARCH WARRANT PROCEDURE IN RESPONSE TO LAW ENFORCEMENT REQUESTS FOR E-WARRANTS EFFECTIVE ON AUGUST 1, 2018.**

In 2012, a pilot program was established by the Maricopa County Superior Court Presiding Judge Nancy O'Brien, Judge Douglas Eyster and Social Appearance Court Commissioner Charles Drenth regarding the Phoenix Police Department's implementation of the process of issuing search warrants electronically. Chief Justice Estrella stated that the program was successful.

- Phase 1 of the program focused on GDSR grant facilities in developing the electronic portal for remote use by Phoenix Police officers. Limited jurisdiction courts were also provided with additional local law enforcement agencies within Maricopa County. In FY 2015, 16,039 electronic affidavits were submitted and 16,039 electronic warrants were issued.
- Phase 2 expanded the program to the Arizona Department of Public Safety's remote use of affidavits on Judicial Order No. 10.
- Phase 3 is signed by Chief Justice Scott Bales.
- Phase 4 is the Administrative Order No. 2018-001 regarding the availability of this system available to all law enforcement agencies throughout Arizona effective August 1, 2018. This will reduce the time that officers spend on the use of the highway or off-highway. The savings from the use of e-warrants is around 10 minutes.

GDSR would like to thank Governor Doug Ducey for his support and encouragement for the implementation of this beneficial program.

We also want to thank the Administrative Office of the Superior Court and the Arizona State Bar as well as their Government Relations Director Amy Larkin and Maricopa County Superior Court Presiding Judge Nancy O'Brien in making the program back in 2012 and continue to support and encourage.

Arizona is the first state in our nation to offer this innovative program statewide. We make the request of the Arizona Police Chiefs and Sheriffs for your allowing their officers to use in this program and Drug Trafficking.

Sincerely,  
Adam Kelly  
Governor's Office of Highway Safety

1300 W. Washington Street, Executive Tower Suite 400 Phoenix, Arizona 85007  
Telephone (602) 225-5224 • Fax (602) 225-5224 • Email: adam.kelly@azdhs.gov • Web: azdhs.gov

## ITEMS OF INTEREST

### ◦ E-warrant expansion

#### AFFIDAVIT FOR SEARCH WARRANT County of Maricopa, State of Arizona

Based on the preceding facts, I, **LAYDEN, KEMP H** #05992, your Affiant, request that a  
☐ daytime ☒ nighttime search warrant be issued.

I, **LAYDEN, KEMP H** affirm under penalty of perjury that the information stated on this search warrant affidavit is true and correct to the best of my knowledge and belief.

Pursuant to Maricopa County Superior Court Local Rule 4.10, this affidavit is electronically signed by **LAYDEN, KEMP H**

Submitted : 5/27/2018 3:15 AM

☐ Building ☐ Equal ☐ Direct Expression ☐ Fair ☐ Antagonistic  
☐ Training ☐ New Action ☐ Pained ☐ Children ☐ Combative  
☐ Unusual ☐ Distorted Consciousness ☐ Pain ☐ Intox ☐ Mood Swings  
☐ Clothing ☐ Speech ☐ Balance ☐ Eyes ☐ Cooperative  
☐ Blinded ☐ Handed ☐ Hearing ☐ Disoriented ☐ Incompetent  
☐ Unchanged ☐ Profound ☐ Low Balance Field ☐ Wary ☐ Indifferent  
☐ Unchanged ☐ Profound ☐ Incompetent ☐ Indifferent ☐ Argumentative

I declare that the property, vehicle, and/or person that I have described in this affidavit are evidence of a crime as being in actual physical control of a vehicle while under the influence of an intoxicating liquor and/or drugs.

I, **LAYDEN, KEMP H** affirm under penalty of perjury that the information stated in this search warrant affidavit is true and correct to the best of my knowledge and belief.

Pursuant to Maricopa County Superior Court Local Rule 4.10, this affidavit is electronically signed by **LAYDEN, KEMP H**

Wherefore your Affiant prays that a search warrant be issued commanding that an immediate search be made of the above named or described premises for the items, items described hereinabove, and that the same be returned to the custody of the officer or to the custody of the agency which the Affiant represents and disposed of according to law, as provided by ARS § 13-1302.

## COMING SOON!

### Intoxilyzer 9000




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### INTOXILYZER 9000

- DPS looked at a variety of instruments
- DPS hopes to start using 9000s by the end of the year
- Will phase them in
- Will still have Intoxilyzer 8000s also for about 5 years
- 9000s are already in use in some other states




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### INTOXILYZER 9000 - DIFFERENCES

- 90 Day and 31 Day Checks Will Be Combined
  - Conducted every 31 days
  - Will include calibration check
  - Will be a new form – be sure to disclose
- Extremely Automated for the Officer
- Much easier to blow into




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**Checklist  
will be  
streamlined**




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**DOCUMENTATION FOR INTOX 9000**

- Breath Test Print Card
- Operator checklist
- 31- day check (no 90-day check)
- May incorporate a yearly maintenance check
- Other maintenance records will be available from the lab
  
- Documentation for the 8000s will stay the same




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**DUI HOT TOPICS**

- **Marijuana**
- Prescriptions
- Heroin/opioids
- Meth use has increased
- Seeing Cocaine again




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## SEEING SPICE AGAIN




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## SPICE – WHAT IS IT?

- o Spice/K2 - synthetic cannabis chemical product
- o Mimics effects of marijuana




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## SPICE

- o Usually plant material
- o Sprayed w/ synthetic THC compounds
- o Sold as incense
- o Smoked or mixed in drink/food
- o Approx. \$20 - \$30/gram
- o Varied pricing dependant on quality
- o **Marijuana street price \$5-\$15/gram**




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## FENTANYL




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## FENTANYL

- Opioid
- Prescription pain medication
- Much stronger than morphine
- Often transdermal
- Many overdoses




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## NOT YOUR (GRAND)PARENTS' MARIJUANA

### ◦ **Average THC:**

- 1983: <4%
- 2007: 7.3%
- 2008: 10.1%
- 2016: up to 35%
- Dabs: 80 – 90+%




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HONEY OIL – DABS - WAX



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VAPING



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Transdermal  
Patches



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*Thank You!*

**Beth Barnes**  
AZ GOHS Traffic Safety Resource Prosecutor  
300 W. Washington Street  
Phoenix, AZ 85003  
beth.barnes@phoenix.gov



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